

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q78079

Eiko KATO, et al.

Appln. No.: 10/575,624

Group Art Unit: 1616

Confirmation No.: 4641

Examiner: Danielle D. SULLIVAN

Filed: April 13, 2006

For: AGENT FOR SKIN EXTERNAL USE CONTAINING SALT OF ASCORBIC ACID
DERIVATIVE, METHOD FOR STABILIZING THE AGENT FOR SKIN EXTERNAL
USE, AND STABILIZER

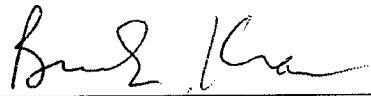
SUBMISSION OF EXECUTED DECLARATION UNDER 37 C.F.R. §1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a copy of an executed Declaration Under 37 C.F.R. § 1.132 signed
by Ms. Eiko Kato.

Respectfully submitted,



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WASHINGTON OFFICE

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CUSTOMER NUMBER

Date: February 1, 2010

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DECLARATION UNDER 37 C.F.R. §1.132

I, Eiko KATO, hereby declare as follows:

1. I am a graduate of Japan Woman's University, department of chemical and biological science, receiving a bachelor's degree in plant physiology in March 1989.

2. In April 1989, I joined Showa Denko Co., Ltd., the assignee of the above-identified patent application, and since then I have been engaged in research and development relating to functional chemicals.

3. I have read and am familiar with the subject matter of the above-identified patent application.

4. I have carried out the following Experiments in order to demonstrate the superior and unexpected results of the present invention over the cited reference, EP 1077066 (Hereinafter Ito).

Experiments

(1) Comparative examples

(1-1) Evaluation of turbidity and precipitation by visual observation

To explain the effect of the invention the following experiments evaluating turbidity and precipitation by visual observation were conducted.

As comparative examples, experiments with visual observation (concerning turbidity and precipitation) are conducted using the following polyhydric alcohols (A) to (D) to obtain lotions in accordance with the method applied for the example 30 in the subject application.

Kind of polyhydric alcohols used

- (A) Propyleneglycol (disclosed in Ito)
- (B) Dipropyleneglycol (disclosed in Ito)
- (C) Butyleneglycol (Outside scope of the present invention)
- (D) Glycerin (Outside scope of the present invention)

The results are shown in the table below.

(1-2) Measurement of optical density

As a quantitative evaluation, measurement of optical density was carried out as follows.

Method of measuring optical density:

Apparatus: U-2000 type double-beam spectrophotometer, manufactured by Hitachi Ltd.

Wavelength for measurement: 660nm

Measuring method: Put a sample into a cell after stirring it thoroughly, and the measure absorbance.

The results are shown in the following table.

(1-3) Results

| No. | | Comparative Examples | | | | Example 30 | Example 33 |
|-----|---|----------------------|------|------|------|------------|------------|
| | | A | B | C | D | | |
| 1 | Ascorbic acid-2-phosphoric acid-6-palmitic acid sodium salt | 1 | 1 | 1 | 1 | 1 | 1 |
| 2 | 1,2-Pentanediol | - | - | - | - | 5 | - |
| 3 | 1,2-Heanediol | - | - | - | - | - | 5 |
| 4 | Propyleneglycol | 5 | - | - | - | - | - |
| 5 | Dipropyleneglycol | - | 5 | - | - | - | - |
| 6 | Butyleneglycol | - | - | 5 | - | - | - |
| 7 | Glycerin | - | - | - | 5 | - | - |
| 8 | Trehalose | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 |
| 9 | Citric acid | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 |
| 10 | Sodium citrate | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 |
| 11 | Methyl para-hydroxybenzoate | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 |
| 12 | Purified water | Rest | Rest | Rest | Rest | Rest | Rest |
| | Turbidity | ± | ± | ± | ± | - | - |
| | Precipitation | - | - | - | - | - | - |
| | Opical density | 0.2 | 0.2 | 0.2 | 0.2 | 0.0 | 0.0 |

It is clear from the table that all the lotions using alcohols disclosed in Ito and alcohols that do not satisfy the requirement of present invention are observed turbidity.

On the other hand the lotions of the examples 30 and 33 of the present invention are not observed turbidity at all and having excellent clarity, which are the particular effect that cannot be expected from Ito.

(2) Importance of "turbidity" in the art of this technical field.

Among agents for skin external use, especially cosmetics, it can be said that psychological effect (appearance and sensitivity), not to mention pharmacological effect, does important contribution in article of trade value.

Generally speaking, a consumer of cosmetic takes change in color and odor, turbidity, precipitation and the like as deterioration of cosmetic. For this reason concerning the stability of cosmetic, that it does not cause change in appearance as much as possible is demanded.

Since it is usually often that cosmetic is filled up clear container with, it can easily be recognized by visual observation even if there is a little change in color, turbidity and precipitation. So it is an extremely important factor to maintain the trade value of the article that cosmetic does not produce turbidity.

So the present invention is not only not anticipated by ITO but also not obvious over Ito.

5. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Eiko Kato
Eiko KATO

Jan. 26, 2010
Date